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December 16, 2009

VIA E-MAIL & U.S. MAIL

Jacob Piehl, Assistant Regional Counsel
Office of Regional Counsel, 6RC-S
United States Environmental Protection Agency, Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Re: In the Matter of San Jacinto River Waste Pits, CERCLA Docket No. 06-03-10
Comments of International Paper Company ("International Paper") and
McGinnes Industrial Maintenance Corporation ("MIMC") on CERCLA
Section 106 Conference Summary

Dear Mr. Piehl:

Attached please find a document entitled "Comments of International Paper Company
("International Paper") and McGinnes Industrial Maintenance Corporation ("MIMC") on
CERCLA Section 106 Conference Summary ("Summary"). The CERCLA Section 106
Conference Summary was sent to International Paper and MIMC by e-mail dated December 9,
2009. You have requested a response by December 16, 2009.

Please call me if you have any questions regarding the attached comments.

Sincerely,

Albert R. Axe, Jr.
for McGinnes Industrial Maintenance Corporation

Jacob Piehl, Assistant Regional Counsel
December 16, 2009
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cc: Barbara A. Nann
John Cermak
David Keith
Jennifer Sampson

**Comments of International Paper Company ("International Paper")
and McGinnes Industrial Maintenance Corporation ("MIMC")
on CERCLA Section 106 Conference Summary ("Summary")**

- (1) The Summary provides that "Respondents have until December 10, 2009" to "submit written arguments concerning liability, sufficient cause defenses and factual issues" Id. at 2. Section X of the Unilateral Administrative Order ("UAO"), however, provides that any "sufficient cause" defenses are to be included with Respondents' written notice of intent to comply which was due December 4, 2009 (within fourteen days of the effective date of the Order).
- (2) Page 2, paragraph (2): The Summary states that "Respondents found the deadlines to be more aggressive than those provided for in the UAO." The Respondents were not referring to the deadlines being more aggressive than those in the UAO, but rather that the deadlines were more aggressive than provided for in EPA's Guidance on CERCLA 106(a) Unilateral Administrative Orders for Remedial Designs and Remedial Actions dated March 7, 1990 (OSWER Directive No. 9833.0-1a).
- (3) Page 2, paragraph (3): The Summary states that "Respondents said they would like to conduct alignment meetings with EPA, TCEQ, and U.S. Corps of Engineers..." The Respondents stated that they would like to have alignment meetings with EPA's project coordinators for the RI/FS and the removal action. It will be up to the EPA project coordinators to determine who else should be included in those meetings.
- (4) Page 3, paragraph (6): By way of clarification, Anchor will be the Respondents' Project Coordinator.
- (5) Page 3, paragraph (7): The date for the meeting between the project coordinators was set for December 10, 2009. The December 9 meeting was the one with Harris County. The same change should be made in paragraph (20) on p. 5.
- (6) Page 3, paragraph (8): Although the parties discussed the Draft Action Memorandum as if it were interchangeable with the statement of work ("SOW"), it was subsequently agreed between EPA and Respondents that Respondents would submit the SOW to EPA on January 29, 2010, and EPA will separately prepare the Draft Action Memorandum. This change should also be made in paragraph (24) on page 6.
- (7) Page 3, paragraph (10): The Summary includes the phrase "and proposed that Respondents would not be identified." Respondents do not recall this statement and, in any event, do not believe it merits being included in this Summary.
- (8) Page 4, paragraph (13): The Summary states that "preliminary data from fingerprinting shows material from the pit is definitely on the site property." Respondents believe this should more accurately say "Big Star" property rather than "site" property.

- (9) Page 4, paragraph (15): The phrase “and the issue of ownership is currently in probate” seems out of place and should be deleted. Also, the Summary provides that the Respondents stated that “it may take a while” to send out access letters to landowners. In fact, Respondents stated that they would send out the access letters on December 4 or 7, 2009 (which they did), but that it “it may take a while” to gain access. In addition, the Summary provides that Respondents stated “that dioxin is fairly stable.” In fact, the Respondents stated that the material at the San Jacinto waste pits which may contain dioxin is fairly stable.
- (10) Page 4, paragraph (16): The Summary states that “EPA recommended documenting calls and other contacts, as well as flying out to the site to knock on doors.” It is our recollection that Mrs. Nann simply mentioned as an example of “best efforts” an occasion when EPA or a PRP actually “knocked on doors” in an attempt to locate the owner of property to obtain access.
- (11) Page 5, paragraph (17): The Summary states that Respondents added that TxDOT has delayed in assisting with the placement of barriers. By way of clarification, TxDOT has been very cooperative and any delay has apparently been as a result of construction to be carried out nearby.
- (12) Page 5, paragraph (18): It is unclear what “work plan” is being referenced in this paragraph. Respondents suggest deleting all of this paragraph after the second sentence.
- (13) Page 5, paragraph (19): The final sentence of this paragraph is not accurate. Respondents recall Mr. Tzhone stating that he is unsure of the intent of the language in Paragraph 52 of the UAO regarding a “project manager.” Mr. Tzhone and Mrs. Nann agreed that Respondents are not required to designate a “project manager” under Paragraph 52.
- (14) Page 5, paragraph (21): To clarify, this paragraph is about the December 9, 2009 “Harris County” meeting. In the second sentence, the second “Respondents” should be replaced by “Harris County.” Respondents were informing EPA of the issues they had heard that Harris County wanted to discuss at the December 9 meeting.
- (15) Page 6, paragraph (24): sixth and eighth bullets: The date for the technical side alignment meeting remains January 20, 2010. In addition, the “RI Workplan” should be revised to “RI/FS Workplan.”
- (16) Finally, a few nits: (i) Ms. Jennifer Sampson was present for both Respondents not just International Paper (page 1); (ii) David Keith is with Anchor, not Ancitor (page 1); (iii) the Summary refers to a “project quality plan,” but this is the “quality management plan” (page 3, paragraph (4); p. 6, paragraph (24), fifth bullet).”; (iv) the Summary refers to a “Consent Order” but this should be the proposed Administrative Settlement Agreement and Order on Consent (AOC). (Page 2, 3rd full paragraph; Page 3, paragraph (7); (v) On Page 3, paragraph (10), the reference to “Special Notice Letter” should be to the “proposed AOC”; and (vi) the reference to the project managers in paragraph (22) should be to the “TCEQ project managers.”